REMARKS

INTRODUCTION:

In accordance with the foregoing, claims 54 and 66 have been amended. No new matter is being presented, and approval and entry of the foregoing amendments is respectfully requested

Claims 45-51, 53-60, and 62-71 are pending and under consideration. Reconsideration is requested.

REJECTION UNDER 35 U.S.C. §103:

In the Office Action at pages 2-5, the Examiner rejects claims 45-51, 53-60, and 62-71 under 35 U.S.C. §103 in view of Meyer et al. (U.S. Patent No. 6,829,368) and Montulli (U.S. Patent No. 5,744,670). This rejection is respectfully traversed and reconsideration is requested.

By way of review, Meyer et al. discloses a decoder which collects identifiers in response to a user request while the objects containing these identifiers are being played. In order to capture the identifier, the decoder includes an interface having a button used by the user to request information about the objects. When selected, the decoding device packages a message including the identifier, and invokes a communication application, such as an Internet Browser. The invoked communication application forwards the provided identifier as a message to a server. (Col. 13, lines 4-27, col. 16, line 61 to col. 52). However, while the communication application forwards the identifier in a message prepared by the decoder apparatus, there is no suggestion that the communication application stores the content identifier as opposed to the decoder interface or the decoder apparatus.

Moreover, while the Examiner asserts that storage inherently precedes transmission, it is respectfully submitted that there is no evidence of record that an Internet browser necessarily provides local storage where the message is prepared by another device invoking the Internet browser. Generally, where the Examiner relies upon the theory of inherency, the Examiner is required to provide extrinsic evidence that the features are necessarily present in the reference. As noted in MPEP 2112, "[t]he fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic." (emphasis in original). Since the Examiner has not provided evidence that the Internet browser receiving a message from a device invoking the browser necessarily also stores the message, it is respectfully submitted that the Examiner has not provided sufficient evidence to rely on Meyer et al. inherently disclosing such features as set forth in the Office Action and as is required to

disclose the features of claims 45, 51, 54, 58, 59, 62-64, 66, and 68.

Since Montulli is not relied upon as disclosing this feature, it is respectfully submitted that the combination does not disclose or suggest, among other features, "a controller for storing the contents identifier provided by the identifier provider as a Cookie file" as recited in claim 45.

For at least similar reasons, it is respectfully submitted that the combination does not disclose or suggest, among other features, "receiving a file including an identifier of predetermined contents from a reproduction apparatus for reproducing the contents, the file being prepared by and stored by a browser on the reproduction apparatus prior to transmission to the server" as recited in claim 51; "a controller to control the browser to prepare and store the file including the identifier from the identifier provider prior to transmission to the server" as recited in claim 54; or "preparing and storing the detected contents identifier in the Cookie file for use in a subsequent transmission by the apparatus to a server system" as recited in claim 59; or that the "the controller controls the browser to prepare and store the Cookie file with the contents identifier in the prepared Cookie file" as recited in claim 66.

On page 2 of the Office Action, the Examiner acknowledges that Meyer et al. does not disclose transmitting a contents identifier in a Cookie file. In order to cure this deficiency, the Examiner relies upon Montulli to disclose that it is well known to use Cookie files for data transmission. As a motivation, the Examiner asserts on pages 2-3 that one skilled in the art would have been motivated to use Cookie files for data transmission since Cookie files were known in the art as a data transmission scheme utilized in web browsers.

However, Meyer et al. does not suggest using the Internet browser to store a contents identifier, and instead suggests the decoder preparing a message and invoking the Internet browser solely to transmit the contents identifier in a message. (Col. 13, lines 20-27 of Meyer et al.) As such, Meyer et al. does not suggest a need for the creation of the Cookie file with the contents identifier since Meyer et al. does not rely upon the Internet browser for more than relaying messages.

Additionally, Montulli discloses the use of Cookie files in the context of client server relationships where the state of the client cannot otherwise be maintained in client server system. (Col. 2, lines 15-21 of Montulli). Thus, Montulli discloses using Cookie files sent from a server to a client so that, when the client later accesses the same server, the client information is maintained with respect to the server by sending the cookie to the same server. (Col. 9, lines 45-65 and Example 1 of Montulli). There is no suggestion that the same or another Cookie file is pre-generated at the client prior to contact with the server so as to be independent of the Cookie file provided by the server.

Further, while suggested as being useful for retaining client status information in a client server relationship, there is no suggestion that Cookie files should be used to transmit data for information not generated during a prior or existing network connection between the client and the server to transmit information not related to the client-server relationship. As such, it is unclear as to why one skilled in the art would modify Meyer et al., which transfers messages generated by the decoder apparatus through the Internet browser, to instead use the Internet browser to store or send a Cookie file with the same information as the message to be transferred to a server, which is the Cookie file usage suggested by Montulli.

Lastly, there is evidence of record teaching against the use of Cookie files in view of the privacy concerns invoked by the use of cookies. Lin et al., *Taking a Byte Out of Cookies: Privacy, Consent, and the Web*, ACM Policy Proceedings of the Ethics and Social Impact Component on Shaping Policy in the Information Age, pp. 39-51 (1998). Thus, one skilled in the art, in view of such teachings as Lin et al, would not be motivated to modify Meyer et al., which does not require cookies to transmit data, to instead transmit contents identifiers in a Cookie file according to Montulli merely because Cookie files are known.

As a general matter, in order to establish a prima facie obviousness rejection, the Examiner needs to provide both the existence of individual elements corresponding to the recited limitations, and a motivation to combine the individual elements in order to create the recited invention. The Examiner is further required to evaluate the record as a whole, and to account for contrary teachings existing in the record. In re Young, 18 USPQ2d 1089 (Fed. Cir. 1991) cited by MPEP 2143.01. Should the Examiner fail to provide evidence that either one of the individual elements or the motivation does not exist in the prior art, then the Examiner has not provided sufficient evidence to maintain a prima facie obviousness rejection of the claim. MPEP 2143.03. Thus, the burden is initially on the Examiner to provide evidence as to why one of ordinary skill in the art would have been motivated to combine the individual elements to create the recited invention, and to demonstrate that this evidence existed in the prior art. MPEP 2143.01. In view of the above, it is respectfully submitted that there is insufficient evidence of record as to why one skilled in the art, knowing the evidence of record, would modify Meyer et al. in order to use a cookie disclosed in Montulli, especially when Meyer et al. already suggests a suitable transmission mechanism. Therefore, it is respectfully requested that the Examiner reconsider and withdraw the rejection of claims 45-51, 53-60, and 62-71.

CONCLUSION:

In accordance with the foregoing, it is respectfully submitted that all outstanding

objections and rejections have been overcome and/or rendered moot, and further, that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited and possibly concluded by the Examiner contacting the undersigned attorney for a telephone interview to discuss any such remaining issues.

If there are any additional fees associated with the filing of this Response, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

STEIN, MCEWEN & BUI LLP

By: _____
James G. McEwen
Registration No. 41,983

1400 Eye Street, NW
Suite 300
Washington, D.C. 20005
Telephone: (202) 216-9505
Facsimile: (202) 216-9510

Date: April 4, 2006